

## UNITED STATES DISTRICT COURT

for the  
District of New Mexico

In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)

Residence and premises located at Navajo Housing  
Authority (NHA) #49, Naschitti, New Mexico

Case No. **22mr1013****APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS**

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See attachment A

located in the \_\_\_\_\_ District of New Mexico, there is now concealed (identify the person or describe the property to be seized):

See attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;  
☒ contraband, fruits of crime, or other items illegally possessed;  
☒ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

<i>Code Section</i>	<i>Offense Description</i>
18 USC §1201(a)(1)	Kidnapping Resulting in Death

The application is based on these facts:

See attached affidavit that was approved by Assistant United States Attorney Joseph Spindle

- ☒ Continued on the attached sheet.  
☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Justin Tennyson  
Applicant's signature

Justin Tennyson, Special Agent, FBI  
Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by  
Telephonically sworn and electronically signed (specify reliable electronic means).

Date: 6/30/2022

B Paul Briones  
Judge's signature

City and state: Farmington, New Mexico

B. Paul Briones, US Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF  
APPLICATION FOR SEARCH WARRANT**

I, Justin Tennyson, depose and state as follows:

**Introduction and Agent Background**

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”), and have been so employed since July 2014. I am currently assigned to the Albuquerque Field Office, Gallup Resident Agency. My primary duties as a Special Agent with the FBI include investigating crimes occurring in Indian Country to include assaults, kidnappings, and murders. I have gained experience in the conduct of such investigations through previous case investigations, formal training, and in consultation with law enforcement partners in local, state and federal law enforcement agencies. As a Federal Agent, I am authorized to investigate violations of the laws of the United States and have authority to execute arrest and search warrants issued under the authority of the United States.

2. This affidavit is based upon my personal knowledge, and upon information reported to me by other federal, state, and local law enforcement officers during the course of their official duties, all of whom I believe to be truthful and reliable. Throughout this affidavit, reference will be made to law enforcement officers. Law enforcement officers are those federal, state, tribal, and local law enforcement officers who have directly participated in this investigation, and with whom your affiant has had regular contact regarding this investigation.

3. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search the premises located at Navajo Housing Authority (NHA) #49, Naschitti, New Mexico (hereinafter referred to as the “TARGET PREMISES”). A more detailed description and photograph of the TARGET PREMISES is

contained within Attachment A, which has been attached hereto and incorporated herein by reference. Your affiant has set forth only the facts that your affiant believes are necessary to establish probable cause for a search warrant that a violation of United States Code Title 18 §1201(a)(1) – Kidnapping resulting in death, was committed by Elias VIOLA and evidence, fruits, instrumentalities of, or property intended for use in that violation will be found at the TARGET PREMISES.

**PROBABLE CAUSE**

4. On September 17, 2021 at approximately 4:04 p.m., W.K., hereafter John Doe or Doe, was reported missing by a family member to local authorities in Gallup, New Mexico. The reporting family member, Y.R., stated Doe was last seen on September 16, 2021 at around 11:00 p.m. at Y.R.'s residence in Gallup, New Mexico. The McKinley County Metro Dispatch Authority (MCMDA) contacted T-Mobile US, Inc., Doe's wireless carrier, who stated that John Doe's phone was turned off.

5. Y.R. was interviewed by a Detective at the Gallup Police Department on September 20, 2021. Y.R. stated that she had went to bed around 11:15 p.m. on September 16, 2021 and thought that Doe was home at the time. On September 17, 2021, Y.R. went about her daily activities and then her adult son, K.K., came over and had asked if Doe was there. K.K. told Y.R. that he had received a text message from Doe's girlfriend, D.B., that had asked where Doe was because she was last told by Doe that he was going to go with K.K. around 10:38 p.m. on September 16, 2021.

6. Y.R. and K.K. went into Doe's bedroom and noticed that his wallet was there, which Y.R. thought was odd, but Doe was not at the residence. Doe's cellular telephone was not

at the residence. K.K. told Y.R. that he had spoken with Doe in the afternoon on September 16, 2021.

7. On September 23, 2021, a person was observed laying in the field near County Road 1-C, commonly referred to as Tsayatoh Road, in Mentmore, New Mexico. The area is within the external boundaries of the Navajo Nation. Law enforcement arrived on scene and observed that the male had a tattoo on his left arm with the numbers “12” and “5”. Doe’s family members were contacted and they stated that Doe had the birthdate of his son tattooed on his left arm, which includes the numbers “12” and “5”. Other identifying characteristics, such as height and weight, appeared to be a match to Doe. Doe was pronounced deceased by the Office of the Medical Investigator (OMI) on September 23, 2021. The affiant received notification from the OMI on September 29, 2021 that Doe was positively identified via prints.

8. Doe had a hole in his chest. Doe was wearing a black shirt that was ripped on the right side and was pulled up to his chest area. The left pocket of his gray shorts was turned inside out. There were scratches on the right side of Doe’s torso. There were dark colored hairs located in the left hand of Doe which were seized as evidence. Doe’s cellular telephone was not located on him. A black, size 11 Nike Metcon shoe was found near Doe’s body. Doe was not wearing shoes when he was discovered.

9. On September 24, 2021, D.B. was interviewed by law enforcement at the Gallup Police Department (GPD). D.B. stated she had been in an on and off again relationship with Doe for around a year. D.B. stated she was in Farmington, New Mexico on September 16, 2021 as she works there through the week. D.B. was communicating with Doe during the day as well as in the evening on September 16, 2021. In the daytime, Doe and D.B. were arguing and Doe accused D.B. of not loving him but D.B. assured Doe that that wasn’t the case. In the evening,

Doe told D.B. that he was getting ready to go with his brother, K.K. The last communication that D.B. had with Doe was around 10:38 p.m.

10. On September 30, 2021, K.K. was interviewed by law enforcement. K.K. stated he had been with Doe in the afternoon of September 16, 2021 at K.K.'s residence. K.K. did not have any other plans to meet up with Doe that evening but was going to meet with him the following day. K.K. did not know who Doe would have been meeting with late at night.

11. The Report of Findings for Doe dated October 06, 2021, which was generated by OMI, revealed a manner of death as homicide and the cause of death as multiple injuries. The Postmortem Examination report stated that Doe was in a moderate state of decomposition. Decomposition changes limited the ability to detect and accurately characterize injuries. There was a stab wound of the chest that entered the thoracic cavity and injured the heart, left lung, and aorta, with pooling of blood in the left side of the chest. A large, gaping, indeterminate injury involved the skin and soft tissue of the back of the head, with fractures of numerous bones of the skull, and exposure of the brain to air. The brain had undergone extensive disruption and changes of decomposition. Additional injuries involved a defect to the forehead, small circular defects to the left side of the neck, and numerous fractures of the bones of the face.

12. On October 12, 2021, the affiant received the search warrant results (Case Number 21-MR-1396) from T-Mobile US, Inc. for Doe's cellular telephone account. The call detail records revealed Doe's International Mobile Equipment Identity (IMEI) number to be 354232112869720. The affiant checked with a member of the FBI's Cellular Analysis Survey Team (CAST) who stated this number corresponded with a Samsung Galaxy A21 phone. The records also revealed Doe's phone model to be "SAM A21 32G BLK TMUS KIT RSU", which the affiant interpreted to mean a Samsung Galaxy A21 cellular phone.

13. The toll records revealed that Doe was in contact with a phone number, 505-713-0405, during the evening hours on September 16, 2021, before Doe went missing and was killed. A grand jury subpoena for the aforementioned telephone number revealed the subscriber to be Shannon ETSITTY. ETSITTY and Doe communicated via text message until approximately 10:37 p.m., which is around the time that D.B. was told that Doe was leaving his residence to go with K.K. ETSITTY's subscriber address is approximately one mile from the location of where Doe's body was found and is one of the few residences in the general area.

14. The Court issued a search warrant for text messages relating to ETSITTY's phone number from her service provider. On November 02, 2021, the affiant received the search warrant results (Case Number MR211574). A review of the text messages between ETSITTY and Doe revealed that they began to arrange a sexual meeting with each other on September 14, 2021. It is unknown if they met that night but ETSITTY stated that she wanted to "cuff" Doe, which the affiant believes meant that she wanted to handcuff Doe. Doe and ETSITTY again planned to meet during the evening of September 16, 2021 rather than Doe meeting with K.K. as he had told D.B. They began to exchange text messages with each other shortly after 6:00 p.m. as ETSITTY started the text message conversation with Doe. Seemingly, Doe believed that he was meeting ETSITTY to have sexual relations with her. At approximately 6:31 p.m., ETSITTY sent a text message to C.S. and asked if she had any more black gloves. The reply was that she didn't and ETSITTY was asked why she had asked but ETSITTY did not reply via text message. C.S. is ETSITTY's mother and works in a janitorial job and would likely have black latex gloves to complete her duties.

15. In the text exchanges, ETSITTY agreed to have sex with Doe in her vehicle. Doe had told ETSITTY that he did not have a vehicle. Doe wanted to have sex in the parking lot of

his apartment complex, but ETSITTY stated that she didn't want to do that and wanted to "go somewhere dark to smash." Affiant interprets the term "smash" was used to reference sexual relations. ETSITTY told Doe that she was by herself when asked by Doe and that she was currently on the north side and had her sister's red car. It is noted that ETSITTY's earlier messages to other individuals on September 16, 2021 revealed that she was with VIOLA at this time and that she wanted to obtain money because she was sober and needed to get some "more." The affiant interprets this to mean ETSITTY wanted to obtain "more" drugs and/or alcohol.

16. On September 16, 2021, ETSITTY was also communicating with 505-713-5327. A grand jury subpoena revealed the subscriber of 505-713-5327 to be Halbert SAM, hereafter SAM. At approximately 9:02 a.m., SAM texted ETSITTY, "Wyg at." The affiant interprets this to be SAM asking where VIOLA and ETSITTY were at as it appears they were together at the time. ETSITTY stated they were trying to figure out what to do that day as they didn't have any gas. Text messages that were later sent appeared to indicate that VIOLA and ETSITTY later met up with SAM.

17. On September 16, 2021, ETSITTY arranged to pick Doe up outside of his residence and text messaged Doe at approximately 10:25 p.m. that she was there in a red car and that it did not have a front windshield. Meanwhile, at approximately 10:34 p.m., the telephone number 505-593-0960 texted ETSITTY "?". A search warrant (Case Number 21-MR-1606) revealed the subscriber of 505-593-0960 to be Elias VIOLA. McKinley County District Court records revealed that ETSITTY was in a relationship with a man named VIOLA. Doe responded to ETSITTY that he was waiting for her. At approximately 10:36 pm., ETSITTY again told Doe that she was going around the complex. At approximately 10:37 p.m., Doe stated that he was sitting in his friends ride and that ETSITTY had passed him. There is no indication that Doe was

actually with anyone else when he stated this to ETSITTY. This was the last text message that Doe sent to ETSITTY and, therefore, the affiant believes that ETSITTY turned around and picked Doe up in the red vehicle. The affiant believes that ETSITTY was alone in the vehicle as Doe had asked ETSITTY if she was alone and her response at approximately 9:56 p.m. was that she was.

18. Later that evening, at approximately 10:54 p.m., ETSITTY sent a text message to her sister, P.E. ETSITTY asked P.E. for help as they were stuck. At approximately 11:15 p.m., ETSITTY told P.E. that the cops were there and to be sober. According to McKinley County Sheriff's Office (MCSO) records, deputies arrived at the scene of a disabled car that matched the vehicle driven by ETSITTY around the time of this text.

19. The MCSO records reflected that on September 16, 2021, a reporting party said that there was a car in a ditch near the rock-climbing area off Mentmore Road. The reporting party said there was a shirtless guy standing near the car attempting to wave her down. The reporting party didn't want to stop, so she had called for assistance. The responding MCSO officer was dispatched near the rock-climbing area off of Mentmore Road to the area and arrived at approximately 11:09 p.m. The officer observed a red Chevrolet Aveo passenger car, without a windshield, bearing New Mexico license plate ASXR91, Vehicle Identification Number (VIN) KL1TD56668B112948. The car had crashed in the ditch. ETSITTY was by the driver side of the vehicle and VIOLA was on the passenger side. ETSITTY stated she was ok but VIOLA stated that his head was hurting and felt like he was going to pass out. ETSITTY stated they were traveling westbound on Mentmore Road and a car was coming in their direction and they had swerved off the roadway to avoid hitting the other vehicle. ETSITTY stated she had called her sister to help tow them out.



20. The affiant spoke to the responding MCSO officer and he confirmed that ETSITTY's sister arrived at the crash site that evening. ETSITTY told the officer that she was going to her nearby home, since a family member was watching her child. ETSITTY and VIOLA's vehicle was towed back up to the roadway and they left in their vehicle.

21. The affiant reviewed the photographs and body camera footage taken after the crash involving ETSITTY and VIOLA by the MCSO on September 16, 2021. ETSITTY confirmed her cellular phone number was 505-713-0405. After the MCSO officer realized there was blood on the ground, the officer asked if one of them was bleeding. VIOLA stated he had a bloody nose. In the photographs, a reddish substance appears to be on the right side of the steering wheel, the gear selector between the driver and passenger seats, on the front passenger side floor mat, on the interior passenger side door, and on the interior passenger side window pillar. A dark substance was on the ground near the front passenger side door of the vehicle.

22. On November 03, 2021, the affiant went to the site of the aforementioned crash and conducted a search of the area. The location of the crash was approximately 1.8 miles from where Doe would have been picked up at his apartment complex according to the directions Doe had gave to ETSITTY via text message on September 16, 2021. A size 11 black Nike Metcon shoe and black cellular telephone case were seized as evidence. The shoe was approximately 31 feet from the tire tracks that were still on the ground from ETSITTY and VIOLA's vehicle being towed back to the roadway. The shoe appeared to be identical to the one that was seized on September 23, 2021 near Doe's body. Y.R. was contacted and confirmed to law enforcement that Doe was wearing size 11 black Nike Metcon shoes as she still had the receipt from when she had purchased them in December 2020. Therefore, law enforcement believes that one of Doe's shoes was near the location of Doe's body when it was discovered on September 23, 2021 and the

other was discovered near where ETSITTY and VIOLA had crashed their vehicle on September 16, 2021.

23. In a text message exchange on September 22, 2021, ETSITTY asked VIOLA if he could come out sometime soon and “get the stuff yourself? Heard people are going to search that backroad today with atv and horses.” VIOLA responded, “Just leave it just let them get me I give up you got a whole life in head of you.” ETSITTY replied that she was praying things would be okay. Y.R. confirmed that they were using ATV’s and horses in the Mentmore, NM area to try and locate Doe in the days prior to Doe’s body being found. The affiant believes that this indicates that ETSITTY was concerned that Doe’s body was going to be found near her residence but VIOLA would take responsibility for the homicide of Doe, likely because ETSITTY is approximately nine years younger than VIOLA.

24. On September 25, 2021, SAM texted ETSITTY about VIOLA. SAM explained that VIOLA had dropped him off last night and that VIOLA thought that ETSITTY had snitched. ETSITTY replied that she wasn’t a snitch and that VIOLA was the one that was, “telling that old lady that were involved in a murder.”

25. The Court issued a search warrant for VIOLA’s text messages from his service provider. On November 12, 2021, the results of the search warrant (Case Number 21-MR-1606) served to Cellular One were received for VIOLA’s cellular account. A review of the messages between ETSITTY and VIOLA revealed that on October 12, 2021, ETSITTY stated that that “fool” keeps popping up in her head. ETSITTY goes on to state, “They don’t have any evidence or nothing. But he already put 6feet down.” VIOLA advised ETSITTY not to think about it and ETSITTY stated, ...“it’s the smell that I smell. Smells like that dudes blood and its just nasty.” They go on to talk about ETSITTY being pregnant and VIOLA stated, “So is it mine or that dead

guys that's probably why you tripping out." The affiant believes ETSITTY and VIOLA were discussing the murder of Doe during these text messages.

26. On October 14, 2021, VIOLA sent a text message to ETSITTY that stated, "Im the one always fucking up and killing for the worng reason and not killing the one that needs to like me I should be dead." On October 15, 2021, ETSITTY asked VIOLA how he was doing and VIOLA replied, "Im doing ok kitty for real I just miss you and son like crazy my be you just worried about me seen how happy when I was killing and how I had a smile when I was doing it maybe." The affiant believes VIOLA was discussing the murder of Doe in these messages.

27. On October 22, 2021, VIOLA sent a text message to 505-593-1686 that stated, "Were tell him lets take in the red car ASAP." The response was, "He said no gas but hes down." VIOLA then text messaged ETSITTY that his plan was to take in the red car, which the affiant believes to be the same vehicle involved in the crash on September 16, 2021 involving ETSITTY and VIOLA. VIOLA then told ETSITTY at approximately 4:16 p.m. that he was towing in the car. ETSITTY stated, "Oh okay so you towed it in?" VIOLA stated that he had.

28. On October 23, 2021, ETSITTY sent a text message to VIOLA that discusses the "fool" pulling the wheel and getting them stuck. The affiant believes that ETSITTY is referencing Doe grabbing the steering wheel of their vehicle on September 16, 2021 which had caused the vehicle to crash and become stuck.

29. Affiant began contacting local tow lots to determine if they had acquired possession of the red car that ETSITTY and VIOLA had used on September 16, 2021. Affiant determined that the car was located at an auto salvage and recycling business near Gallup, New Mexico. On November 16, 2021, the affiant seized the vehicle that ETSITTY and VIOLA were using on September 16, 2021 from the recycling business. The Court issued a search warrant

(Case Number 21-MR-1648) for the red Chevrolet Aveo bearing New Mexico license plate ASXR91 with V.I.N. KL1TD56668B112948. Members of the FBI Albuquerque's Evidence Response Team (ERT) executed the search warrant on November 30, 2021. Blue-star reagent was utilized to locate possible blood evidence and indicated extensive probable blood evidence within the vehicle.

30. The affiant sent various evidence items that have been seized in the investigation, to include items seized from the search of the red Chevrolet Aveo, to the FBI Laboratory in Quantico, VA in December 2021 for examination. The results are currently pending.

31. On March 22, 2022, a mirandized interview of VIOLA was conducted by law enforcement. VIOLA stated he got with ETSITTY on September 16, 2021 and she had told him that she had been "messaging" with a couple of guys. VIOLA told ETSITTY that he would give up his life for her and that's when things got serious. VIOLA stated ETSITTY was communicating with Doe on September 16, 2021 and was telling Doe that she could come by and have sex with him. VIOLA stated ETSITTY was alone in the vehicle when she picked up Doe and that there was another individual, who law enforcement later determined to be SAM, that assisted. VIOLA stated he was just supposed to beat Doe up but it had went south. SAM was holding Doe while VIOLA was beating Doe up and ETSITTY took off with all of them in the vehicle. VIOLA stated he and SAM stabbed Doe with either a knife or a tool that was in the vehicle.

32. VIOLA stated they ended up in the ditch after Doe grabbed the wheel. VIOLA and SAM hid Doe's body near the scene of the crash prior to law enforcement's arrival. Doe was later taken via vehicle to the site where he was located on September 23, 2021. VIOLA stated the red vehicle had been cleaned using Clorox rags.

33. On March 29, 2022, P.E. was interviewed by law enforcement. P.E. stated that ETSITTY told her that VIOLA and SAM had beat up Doe. VIOLA had a gun and used a screwdriver to stab Doe. VIOLA also had a shovel that he had allegedly gotten rid of along with the screwdriver.

34. ETSITTY was arrested via a criminal complaint (Case Number 22-MJ-136) on March 23, 2022. On June 27, 2022, a proffer interview of ETSITTY was conducted at the FBI office in Albuquerque, NM with her attorney present. ETSITTY stated that the cellular telephone that belonged to Doe was taken by VIOLA after Doe had been attacked by VIOLA and SAM. VIOLA had went through Doe's phone and had deleted information off of it. Doe's phone was then given to VIOLA's nephew, a minor child, a few days after Doe was killed. This happened at the NHA house in Naschitti, New Mexico that belonged to VIOLA's oldest sister and brother. The affiant is aware that VIOLA's oldest sister lives at the TARGET PREMISES and has previously interviewed her at the location. The minor child that allegedly received Doe's cellular telephone lives at the TARGET PREMISES.

35. Cellular telephones, including Samsung Galaxy A21 cellular telephones, are small, mobile devices that are commonly put into clothing pockets or otherwise brought with people in other bags or items that they have. Due to this, the affiant is requesting to search the individuals that are present at the TARGET PREMISES, to include any minor children, for the cellular phone that belonged to Doe as previously determined from the records obtained for Doe from T-Mobile. In the affiant's training and experience, family members of individuals that have been arrested by law enforcement will often lie to law enforcement to try to help their family member from being convicted of their crime(s). VIOLA's family members may try to conceal the cellular telephone to try to assist VIOLA.

36. Law enforcement contacted a representative at General Motors and inquired about the aforementioned red Chevrolet Aveo with V.I.N. KL1TD56668B112948. Law enforcement was informed that the vehicle was built in GM's Bupyeong 1, Korea plant on October 19, 2007. The vehicle was imported to the United States on/around September 27, 2007 and arrived in the San Francisco Bay area. After arrival to the United States, the vehicle was delivered to a business in California. The vehicle had warranty service from a business in Albuquerque, NM in 2010. The affiant therefore believes that Doe was kidnapped via the use of an instrumentality of interstate commerce, namely, a Chevrolet Aveo motor vehicle, which had led to his death.

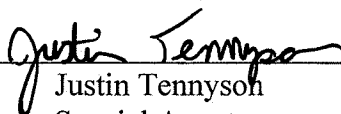
### **CONCLUSION**

37. Based upon the information contained herein, your affiant believes that there is probable cause to search the TARGET PREMISES, described in Attachment A, for the item described in Attachment B, which is evidence, fruits, instrumentalities of, or property intended for use in violation of United States Code Title 18 §1201(a)(1) – Kidnapping resulting in death.

38. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is “a district court of the United States . . . that – has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i).

39. Assistant United States Attorney Joseph Spindle has reviewed and approved this affidavit in support of an application for a search warrant.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Justin Tennyson", is written over a horizontal line.

Justin Tennyson  
Special Agent  
Federal Bureau of Investigation

Telephonically sworn and electronically signed before me this 30th day of June 2022

A handwritten signature in black ink, appearing to read "B. Paul Briones", is written over a horizontal line.

HON. B. Paul Briones

UNITED STATES MAGISTRATE JUDGE

**ATTACHMENT A**

**Place to Be Searched**

The place to be searched is a single family house located at Navajo Housing Authority (NHA) #49, Naschitti, New Mexico. The exterior of the house has tan stucco with white trim and a black number 49 is listed near the roof. The search of the TARGET PREMISES shall include the entire residence and all outbuildings, trash cans, or containers located thereon on the premises in addition to all individuals that are present at the residence. A picture of the residence is attached below.





**ATTACHMENT B**

**Particular Things to be Seized**

As a result of this investigation, there is probable cause to believe that contained within the interior and/or exterior of the residence located at Navajo Housing Authority (NHA) #49, Naschitti, New Mexico 87325, there is evidence related to a violation of 18 U.S.C. §1201(a) – Kidnapping resulting in death, involving the homicide of John Doe, y.o.b. 1994. The search warrant authorized the collection of the following:

1. Samsung Galaxy A21 cellular telephone, model number “SAM A21 32G BLK TMUS KIT RSU,” that belonged to John Doe